

October 20, 2003

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L03P0001**  
Proposed Ordinance No. **2003-0406**

**TASSEL SUBDIVISION**  
Preliminary Plat Application

Location: West of 88<sup>th</sup> Avenue Northeast and south of Northeast 203<sup>rd</sup> Street

Applicant: **Heartland Development**  
Attn: John Baumann  
16030 NE 116<sup>th</sup> St.  
Redmond, WA 98052  
Telephone: (425) 885-3951

King County: Department of Development and Environmental Services, *represented by*  
**Fereshteh Dehkordi**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7173  
Facsimile: (206) 296-6613

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions (modified)

Examiner's Decision:

Approve, subject to conditions (modified)

**EXAMINER PROCEEDINGS:**

Hearing Opened:

October 7, 2003

Hearing Closed:

October 7, 2003

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES/TOPICS ADDRESSED:**

- Transportation impact fees
- Road improvements
- Recreation area location
- Safe walking conditions

**SUMMARY:** The preliminary plat application for 19 lots in the urban area is **GRANTED**, subject to conditions.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General Information:**

Owner/Developer: John Baumann  
16030 NE 116<sup>th</sup> Street  
Redmond, WA 98028

Engineer: Aramaki, Borden & Associates, Inc.  
6141 NE Bothell Way  
Kenmore, WA 98028

STR: NW ¼ 6-26-05

Location: West of 88<sup>th</sup> Avenue NE and south of NE 203<sup>rd</sup> Street

Zoning: Residential six du/acre (R-6)

Acreage: 3.2

Number of Lots: 19

Density: 6 du/acre

Lot Size: Ranges from 4,000 sq.ft. to 7,000 sq.ft.

Proposed Use: Detached Single-Family Residences

Sewage Disposal: Northshore Utility District

Water Supply: Northshore Utility District

Fire District: King County Fire District 16

School District: Northshore School District

Complete Application Date: March 5, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the October 7, 2003 public hearing are found to be correct and are incorporated herein by this reference.

Northeast 203<sup>rd</sup> Street is classified as an urban neighborhood collector.

3. The Applicant has entered into a voluntary agreement with the Washington State Department of Transportation to make a contribution of approximately \$1,500 towards the cost of a traffic signal at the intersection of SR 522 and 83<sup>rd</sup> Place Northeast, to mitigate the impact of this

proposed development on that intersection.

The City of Bothell asserts that most of the traffic generated by this proposed development will impact the City of Bothell street network. However, there is no evidence in the record that the traffic generated by this development will have a probable significant impact on any identified street or intersection within the City of Bothell. (King County's determination of environmental non-significance for this project was issued on August 25, 2003 and was not appealed.)

4. The location of the easterly recreation tract (Tract C) has been changed from the initial proposal by the Applicant, at the request of DDES, to be adjacent to the internal cul-de-sac road. The revised location will better serve the residents of the site than the previously proposed location adjacent to 88<sup>th</sup> Avenue Northeast.
5. Currently, safe walking conditions do not exist for children who will walk to and from school from the proposed development. Improvements required for the development of the plat of Tapestry, which lies immediately to the west of the subject property, were intended to provide safe walking conditions to West Hill Elementary School to the south, but did not, in fact, do so.

In order to provide safe walking conditions to West Hill Elementary School from the proposed plat, paved shoulders, sidewalks or walkways are necessary from the intersection of 86<sup>th</sup> Place Northeast and Northeast 203<sup>rd</sup> Street to the school site. This will require improvements within the right-of-way of Northeast 203<sup>rd</sup> Street, from 86<sup>th</sup> Place Northeast to 88<sup>th</sup> Avenue Northeast, and also within the right-of-way of 88<sup>th</sup> Avenue Northeast, south from Northeast 203<sup>rd</sup> Street to the school site.

Along the frontage of the subject property, curb, gutter and sidewalk are required on the south side of Northeast 203<sup>rd</sup> Street and on the west side of 88<sup>th</sup> Avenue Northeast, to meet the King County Road Standards for urban neighborhood collectors and urban collector arterials, respectively. For the portion of the required school access which is not along frontage of the subject property, Section 3.09 of the road standards requires an asphalt walkway, sidewalk or full width delineated shoulder. A variance from the road standards may be granted by the King County Road Engineer or his designee, pursuant to KCC 14.42.060 when a variance is in the public interest and the public safety is provided for by an acceptable alternative.

6. The curb, gutter and sidewalk improvement required by the Road Standards on the 88<sup>th</sup> Avenue Northeast frontage of the site will be initially isolated from similar improvements. However, future development of the area to urban density is likely to occur, resulting in additional curb, gutter and sidewalk construction. Curb, gutter and sidewalk provides improved safety for pedestrians, and is a reasonable requirement to mitigate the impacts of this development. The provision of safe walkways for children who will walk to and from the elementary school is also a reasonable requirement to mitigate impacts of this development.
7. A walkway from the internal cul-de-sac directly east to 88<sup>th</sup> Avenue Northeast would be a desirable plat feature to improve pedestrian circulation. However, the limited site frontage on 88<sup>th</sup> Northeast makes this improvement difficult to accomplish without adversely affecting two proposed lots (12 and 13) and the existing residence on lot 13. If the Applicant is able to redesign the eastern portion of the subject property to provide a pedestrian tract to 88<sup>th</sup> Avenue Northeast at a location satisfactory to DDES, a minimum 10 foot wide tract, with a 5 foot pavement and a 4 foot fence along each property line shared with a residential lot, are necessary to provide safe pedestrian travel and reasonable privacy and security for the adjacent lots.

**CONCLUSIONS:**

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreations, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on July 30, 2003, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The public health and safety require the abandonment of the existing on-site septic disposal system and well in accordance with the standards and requirements of all state and county agencies with jurisdiction.
6. The Applicant should complete his agreement with the Washington State Department of Transportation to mitigate impacts on the state highway system. There is insufficient evidence of impact to require payment of a road impact fee to the City of Bothell.
7. On-site recreation area should be provided to serve the needs of the future residents of this development in accordance with the standards of KCC 21A.14.180. The areas proposed by the Applicant in tracts A and C of the July 30, 2003 proposed preliminary plat appear to meet those requirements, subject to final review and approval by DDES.
8. The Applicant is required to make improvements consistent with the King County Road Standards to Northeast 203<sup>rd</sup> Street, as a neighborhood collector, and to 88<sup>th</sup> Avenue Northeast, as a collector arterial, along the frontage of the subject property on both of those streets. The Applicant is also be required to make improvements to Northeast 203<sup>rd</sup> Street and 88<sup>th</sup> Avenue Northeast to provide continuous safe walking conditions consistent with the King County Road Standards for school access (KCRS 3.09), from the intersection of 86<sup>th</sup> Place Northeast and Northeast 203<sup>rd</sup> Street to the site of West Hill Elementary School on 88<sup>th</sup> Avenue Northeast. These requirements could be modified by a road variance approved by the King County Road Engineer.

**DECISION:**

The proposed plat of Tassel, as revised and received July 30, 2003, is GRANTED preliminary approval subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department to properly remove the existing septic system and drain field, and shall abandon and protect the existing well in accordance with all requirements of the State of Washington and King County.
5. The existing structures on lot 13 shall comply with the minimum setback requirements of KCC 21A. 12. 030 or the structure(s) shall be moved, modified or removed.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
  - d. The drainage detention facility shall be designed to meet at a minimum the Level 1 Flow Control and Basic Water Quality menu in the 1998 King County Surface Water Design Manual (KCSWDM).

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements, except as these requirements may be modified by a road variance granted by the King County Road Engineer:
  - a. 86<sup>th</sup> Place NE (the internal access road) shall be improved at a minimum to the subaccess street standard.
  - b. FRONTAGE: The frontage of the site along NE 203<sup>rd</sup> Street (south side) shall be improved to the urban neighborhood collector standard.
  - c. FRONTAGE: The frontage of the site along 88<sup>th</sup> Ave NE (west side) shall be improved to the urban collector arterial standard with a provision for a bike lane. The roadway cross-section shall provide for a 22-foot half-street width as measured from the centerline of the street to the curb line.
  - d. Tracts B, D and E shall be improved as joint use driveways per Section 3.01 of the KCRS. These driveways shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.
  - e. A minimum 4 foot wide paved shoulder or walkway shall be provided from the plat frontage on 88<sup>th</sup> Avenue Northeast north to Northeast 203<sup>rd</sup> Street, and shall also be provided south from the plat frontage to the West Hill Elementary School site.
  - f. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
  - g. There shall be no direct vehicular access to or from NE 203<sup>rd</sup> Street from those lots which abut it. Similarly, There shall be no direct vehicular access to or from 88<sup>th</sup> Avenue NE from those lots which abut it except for the existing driveway for Lot 13. A note to this effect shall appear on the engineering plans and final plat.\*
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final

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\* The examiner recommends that during final design review, consideration be given to widening the eastern portion of Tract E to enable the provision of access to lot 13 at such time as the existing residence on lot 13 is replaced.

approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

12. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.). The proposed combined recreation and storm drainage tract is acceptable subject to the following conditions:
  - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, final grade, and general improvements including landscaping per KCC 21A.16. The approved engineering plans shall be consistent with the overall conceptual plan.
  - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
  - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
13. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
14. Street trees shall be provided along the interior road and both street frontages as follows (per KCRS 5.03 and KCC 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The applicant shall contact Metro Service Planning to determine if 88<sup>th</sup> street Avenue and NE 203<sup>rd</sup> Avenue are on a bus routes. If they are on a bus route, the street tree plan shall also be reviewed by Metro.
  - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
  - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
15. To implement KCC 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of KCC 21A.38.230, as well as the conceptual tree retention plan which is part of the hearing record for this project. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with KCC 21A.38.230B4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to KCC 21A.38.230B4d(2).
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)
16. The applicant shall execute its voluntary agreement with the Washington State Department of Transportation to pay a pro rata share towards improvements described in the WSDOT letter dated September 11, 2003 (Attachment 3 to the DDES staff report, exhibit no. 1).

ORDERED this 20th day of October, 2003.

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James N. O'Connor, pro tem  
King County Hearing Examiner

TRANSMITTED this 20th day of October, 2003, to the parties and interested persons of record:



Alan Aramaki  
Aramaki, Borden & Associates, Inc.  
6141 NE Bothell Way  
Kenmore WA 98028

John Bauman  
Heartland Development  
16030 NE 116th St.  
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Bruce Whittaker  
DDES/LUSD  
Prel. Review Engineer  
MS OAK-DE-0100

### **NOTICE OF RIGHT TO APPEAL**

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 3, 2003***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 10, 2003***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 7, 2003 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0001.

James N. O'Connor was the Pro Tem Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Kristen Langley, Bruce Whittaker, representing the Department; and John Bauman and Alan Aramaki, representing the Appellant, and Diana Clapper.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File L03P0001
- Exhibit No. 2 DDES Report to the Hearing Examiner dated October 7, 2003
- Exhibit No. 3 Application Received by DDES March 5, 2003
- Exhibit No. 4 Environmental Checklist dated August 29, 2002
- Exhibit No. 5 Declaration of Non-Significance dated August 25, 2003
- Exhibit No. 6 Affidavit of Posting showing March 20, 2003 as date of posting and March 21, 2003 as date affidavit was received by DDES
- Exhibit No. 7 Revised Site Plan received by DDES July 30, 2003
- Exhibit No. 8 Assessors Map NW 6-26-05
- Exhibit No. 9 Certificate of Transportation Concurrence issued June 27, 2002
- Exhibit No. 10 Level 1 Drainage Analysis prepared by Aramaki Borden & Associates received by DDES January 27, 2003
- Exhibit No. 11 Letter to John Bauman from Celeste Botha of Wetlands Ecology;  
Re: Wetland Analysis Report dated May 13, 2002
- Exhibit No. 12 Letter to DDES from Dave Zabell, City of Bothell dated March 27, 2003
- Exhibit No. 13 Letter to Fereshteh Dehkordi from Ramin Pazooki of the Washington State  
Department of Transportation dated September 11, 2003
- Exhibit No. 14 Conceptual Drainage/Utilities Plan for Tassel received by DDES January 27, 2003
- Exhibit No. 15 Photograph depicting south boundary of the subject property
- Exhibit No. 16 Photograph depicting the portion of the road that fronts 88<sup>th</sup> looking to the west
- Exhibit No. 17 Hearing Examiners Report and Decision on Tapestry (L98P0050) Preliminary Plat  
Dated January 22, 2001
- Exhibit No. 18 Hearing Examiners Report and Decision on Weathersfield (S92P0017) Preliminary Plat  
dated September 1, 1993
- Exhibit No. 19 Photographs taken by Diana Clapper
- Exhibit No. 20 Photographs #s 3, 9 & 36

JNO/gao  
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